IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929

WP(C).No. 28967 of 2006(W)

PETITIONER:

M.T. KADEERU, W/O.KUNHAMMAD,
P.O. EZHIKODE, CHERUTHAZHAM AMSOM,
KANNUR DISTRICT.

BY ADV. SRI.O.RAMACHANDRAN NAMBIAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, KANNUR.

3. THE SPECIAL TAHSILDAR(LA), KANNUR.

BY GOVERNMENT PLEADER SHRI BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE PETITION DATED 21.7.99 FILED BY THE PETITIONER BEFORE THE SECOND RESPONDENT

EXT.P2 TRUE COPY OF THE ORDER DATED 24.1.2001 PASSED BY THE THIRD RESPONDENT

//TRUE COPY//

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 28967 OF 2006

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Dated this the 6th day of December, 2007

J U D G M E N T

Petitioner's land was acquired for a public purpose. She did not make any claim under Section 18 of the Land Acquisition Act. Subsequently, she filed application under Section 28A of the Act claiming enhancement. The Land Acquisition Officer redetermined and fixed the compensation due to the petitioner as Rs.1,29.643/-. Petitioner was awarded 12% increase from 30.3.1988 to 21.3.1989. Petitioner was also awarded solatium. Thereafter, the petitioner filed an application under Section 28A(3) of the Act for referring the matter to the competent court. That application was rejected by the Land Acquisition Officer on 24.1.2001. Challenging that order, this Writ Petition is filed.

2. I do not find any reason to interfere with the order passed by the Land Acquisition Officer rejecting the 28A(3) application filed by the petitioner. Petitioner is entitled to get interest under Section 34 of the Act. It is submitted by the

learned Government Pleader that in view of the decision reported in Gurpreet Singh v. Union of India (2006) 8 SCC 457) interest, if any, can be calculated only in accordance with the principles laid down in paragraph 54 of that judgment. Of course, interest is to calculated as directed by the Apex Court. Petitioner is entitled to get interest on the enhanced compensation which includes solatium also. The amount was redetermined on 31.5.1999, but the Writ Petition was filed only on 3.11.2006. So it is not just and proper to saddle the State Government with the liability to pay interest for the delayed period which occurred due to the inaction on the part of the petitioner. So the petitioner is not entitled to get interest from 1.6.1999 till today. But she is entitled to get interest on the redetermined amount from today till date of payment.

In the result, the Writ Petition is disposed of with a direction to the Land Acquisition Officer to redetermine the amount due to petitioner including interest under Section 34 of the Act and pay the balance, if any, as directed above,

within three months from the date of receipt of a copy of this judgment.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A.

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J U D G M E N T

TH DECEMBER, 2007